

Assembly Bill No. 3

Passed the Assembly July 24, 2009

Chief Clerk of the Assembly

Passed the Senate July 24, 2009

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2009, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Sections 14003, 41207.2, and 41207.3 to the Education Code, relating to education finance, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 3, Evans. Education finance.

(1) The California Constitution requires the state to apply a minimum amount of funding for each fiscal year for the support of school districts and community college districts. The amount of that minimum funding obligation is required to be determined pursuant to one of three tests, depending on specified factors. The California Constitution provides that school districts and community college districts are entitled to a maintenance factor equal to the amount of a reduction of the minimum funding obligation due to specified circumstances. The California Constitution requires that a specified amount of the maintenance factor be allocated in a manner determined by the Legislature in each fiscal year in which the percentage growth in per capita General Fund revenues exceeds the percentage growth in California per capita personal income.

Commencing with the 2010–11 fiscal year, this bill would require the Controller, on March 28 of each fiscal year in which the percentage growth in per capita General Fund revenues exceeds the percentage growth in California per capita personal income, to transfer an amount of moneys, determined by performing a specified calculation, from the General Fund to the State School Fund. The bill would require the Controller to transfer 92% of that amount to Section A of the State School Fund for allocation by the Superintendent of Public Instruction, as specified, and the remaining 8% to Section B of the State School Fund for allocation by the Chancellor of the Community Colleges, as specified. By requiring the Controller to transfer funds to the State School Fund, which is continuously appropriated for purposes of providing funding apportionments to school districts and community college districts, this bill would make an appropriation.

(2) The bill would declare that the minimum state educational funding obligation for school districts and community college districts for the 2005–06 fiscal year is \$53,345,420,000, with an outstanding balance of \$1,110,516,000; for the 2006–07 fiscal year is \$55,251,266,000, with an outstanding balance of \$211,533,000; for the 2007–08 fiscal year is \$56,577,491,000, with no outstanding balance; and for the 2008–09 fiscal year is \$49,102,041,000. The bill would declare that a maintenance factor obligation is created for the 2008–09 fiscal year, and that the outstanding maintenance factor balance through the 2008–09 fiscal year is \$11,212,909,000. The bill would require that the computations of the minimum funding obligation for the 2009–10 fiscal year be based on the amounts identified for the minimum funding obligation and the maintenance factor obligation for the 2008–09 fiscal year.

(3) The bill would revert to the General Fund specified amounts from appropriations for the 2008–09 fiscal year that were unallocated, unexpended, or not liquidated as of June 30, 2009. The bill would reduce revenue limit apportionments for the 2009–10 fiscal year by \$1,516,000,000, and would appropriate \$1,516,000,000 from the General Fund to the Superintendent of Public Instruction for the 2009–10 fiscal year to increase various apportionments to local educational agencies and other recipient entities for the same purposes of those 2008–09 fiscal year appropriations.

(4) The bill would provide that any judicial action or proceeding to challenge, review, set aside, void, or annul the provisions of the bill, or any portion of the bill, may proceed only by application or complaint filed within 45 days of the effective date of the bill.

(5) The bill would provide that if any section or part of the bill is for any reason held unconstitutional, unenforceable, or otherwise invalid, the entire act shall become inoperative, except under specified circumstances relating to the validity of the above provisions relating to the maintenance factor and related payments.

(6) The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. The Governor issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on July 1, 2009.

This bill would state that it addresses the fiscal emergency declared by the Governor by proclamation issued on July 1, 2009, pursuant to the California Constitution.

(7) This bill would declare that it is to take effect immediately as an urgency statute.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) The fiscal crisis of 2008–09 has caused extraordinary volatility in state General Fund revenues and local property tax receipts. The volatility has led to numerous revisions to the Budget Act of 2008 and related education funding statutes and to numerous revisions in the estimated funding required by Section 8 of Article XVI of the California Constitution for the 2008–09 fiscal year. School districts and community college districts need to know with certainty the total amount of funding to which they are entitled for the 2008–09 fiscal year and the state’s plan for providing all of that funding.

(b) Existing law requires the creation of a maintenance factor when certain conditions are met. The fiscal circumstances of 2008–09 have resulted in the creation of a substantial maintenance factor which calls for prudent fiscal planning. The state must know with certainty the amount of that maintenance factor to plan for its future allocation and to determine the level of state support required for school districts and community college districts in coming years.

(c) The American Recovery and Reinvestment Act of 2009 has provided significant federal funding to assist with the state’s educational funding needs for two years. However, continued receipt of that funding is predicated on reconciling the state’s minimum educational funding guarantee calculations with the federal maintenance of effort calculations and ensuring that state funding does not fall below that maintenance of effort level.

(d) The Budget Act of 2009 must be revised to accommodate the continued weakness of the state and national economies, and to ensure that the acceptance of federal stimulus funds does not have a deleterious effect on the minimum funding level set by

Section 8 of Article XVI of the California Constitution for the 2009–10 fiscal year and future fiscal years.

(e) The provisions of this act are intended to be interrelated provisions that address the fiscal crisis of 2008–09 by accomplishing all of the following when implemented:

(1) Set the final calculation of the minimum funding guarantee level for the 2008–09 fiscal year based on the best available calculations of General Fund revenues and local property tax receipts as of the close of the 2008–09 fiscal year.

(2) Ensure that any subsequent changes to technical data do not cause changes in the state funding obligations for school districts and community college districts for the 2008–09 fiscal year.

(3) Plan for and ensure full repayment of the maintenance factor created through the 2008–09 fiscal year.

(4) Revert to the General Fund certain unallocated appropriations made to school districts and community college districts for the 2008–09 fiscal year.

(5) Compensate school districts and community college districts for the reversions described in paragraph (4) in their funding for the 2009–10 fiscal year and reduce revenue limits accordingly for school districts, county offices of education, and community college districts.

SEC. 2. Section 14003 is added to the Education Code, to read:

14003. (a) Commencing with the 2010–11 fiscal year, on March 28 of each fiscal year in which the percentage growth in per capita General Fund revenues exceeds the percentage growth in California per capita personal income, the Controller shall transfer from the General Fund to Sections A and B of the State School Fund, as set forth in subdivision (c), the amount determined pursuant to paragraph (1) minus the amount determined pursuant to paragraph (2).

(1) The product of General Fund revenues from proceeds of taxes and one-half of the difference between the percentage growth in per capita General Fund revenues from proceeds of taxes and in California per capita personal income.

(2) The amount of the maintenance factor certified pursuant to Section 41207.2 that is allocated in the current year pursuant to subdivision (e) of Section 8 of Article XVI of the California Constitution.

(b) The amount transferred pursuant to subdivision (a) shall be in addition to amounts required to be allocated pursuant to subdivision (b) of Section 8 of Article XVI of the California Constitution.

(c) (1) Of the amount determined pursuant to subdivision (a), the Controller shall transfer 92 percent to Section A of the State School Fund. The Superintendent shall allocate the funds transferred pursuant to this paragraph in the following priority order:

(A) An amount not to exceed two hundred million dollars (\$200,000,000) for the purposes of revenue limit equalization in a manner consistent with Section 42238.49 for the first fiscal year in which funds are transferred pursuant to this paragraph.

(B) Such amounts as necessary to reduce the revenue limit deficit factors set forth in Sections 2558.46 and 42238.146 until the deficit factors are reduced to zero.

(C) Any remaining amounts transferred pursuant to this paragraph shall be allocated as an equal increase per unit of average daily attendance in general purpose apportionments for purposes of Sections 2558, 42238, and 47633.

(2) Of the amount determined pursuant to subdivision (a), the Controller shall transfer 8 percent to Section B of the State School Fund. The Chancellor of the Community Colleges shall allocate the funds transferred pursuant to this paragraph in equal amounts for the following purposes:

(A) For purposes of career and technical education pursuant to Chapter 352 of the Statutes of 2005.

(B) As a proportionate increase in general purpose apportionments for community college districts.

(d) For purposes of determining the amount required pursuant to paragraph (2) or (3), as applicable, of subdivision (b) of Section 8 of Article XVI of the California Constitution for the following fiscal year, all amounts transferred in the prior fiscal year pursuant to this section shall be deemed allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B for that prior fiscal year.

(e) The sum of the amounts transferred pursuant to this section plus the sum of the amounts of the maintenance factor certified pursuant to Section 41207.2 that is allocated pursuant to subdivision (e) of Section 8 of Article XVI of the California

Constitution shall not exceed the total amount of eleven billion two hundred twelve million nine hundred nine thousand dollars (\$11,212,909,000) less any maintenance factor amount that is allocated for the 2009–10 fiscal year.

SEC. 3. Section 41207.2 is added to the Education Code, to read:

41207.2. (a) Notwithstanding Sections 41203.5 and 41206 and any other provision of law, the minimum funding obligation for school districts and community college districts pursuant to subdivision (b) of Section 8 of Article XVI of the California Constitution for the 2008–09 fiscal year is forty-nine billion one hundred two million forty-one thousand dollars (\$49,102,041,000). The maintenance factor created pursuant to subdivision (d) of Section 8 of Article XVI of the California Constitution for the 2008–09 fiscal year, together with the balances of maintenance factor obligations for prior fiscal years that are unpaid as of June 30, 2009, totals eleven billion two hundred twelve million nine hundred nine thousand dollars (\$11,212,909,000). The maintenance factor shall be appropriated and allocated pursuant to subdivision (e) of Section 8 of Article XVI of the California Constitution.

(b) For the 2009–10 fiscal year, computations of funding obligations pursuant to Section 8 of Article XVI of the California Constitution shall be based on the amount of the minimum funding guarantee for the 2008–09 fiscal year, and the amount of the maintenance factor obligation set forth in subdivision (a) of this section.

(c) The computations required by subdivision (b) of Section 8 of Article XVI of the California Constitution for a fiscal year shall be performed prior to, and separately from, the computation of the maintenance factor allocation identified in subdivision (a) of this section and required by subdivision (e) of Section 8 of Article XVI of the California Constitution.

SEC. 4. Section 41207.3 is added to the Education Code, to read:

41207.3. (a) Notwithstanding Section 41206, the minimum state educational funding obligation for school districts and community college districts pursuant to subdivision (b) of Section 8 of Article XVI of the California Constitution is determined to be the following:

(1) Fifty-three billion three hundred forty-five million four hundred twenty thousand dollars (\$53,345,420,000) for the 2005–06 fiscal year, with an outstanding balance of one billion one hundred ten million five hundred sixteen thousand dollars (\$1,110,516,000). The outstanding balance is appropriated and allocated pursuant to Article 3.7 (commencing with Section 52055.700) of Chapter 6.1 of Part 28.

(2) Fifty-five billion two hundred fifty-one million two hundred sixty-six thousand dollars (\$55,251,266,000) for the 2006–07 fiscal year, with an outstanding balance of two hundred eleven million five hundred thirty-three thousand dollars (\$211,533,000). Commencing with the 2014–15 fiscal year, the Legislature shall appropriate the outstanding balance and specify in the annual Budget Act or other statute making such appropriations that the funds shall be used for any one-time purpose so long as those appropriations are made for allocation to school districts or community college districts.

(3) Fifty-six billion five hundred seventy-seven million four hundred ninety-one thousand dollars (\$56,577,491,000) for the 2007–08 fiscal year, with no outstanding balance.

(b) (1) The amount determined pursuant to paragraph (1) of subdivision (a) of this section shall be deemed certified for purposes of Section 41206 when the conditions set forth in subdivision (c) of Section 41207.1 are met.

(2) The amount determined pursuant to paragraph (2) of subdivision (a) of this section shall be deemed certified for purposes of Section 41206 upon appropriation of the full amount of the outstanding balance determined for that year.

(3) The amount determined pursuant to paragraph (3) of subdivision (a) of this section is deemed to be certified for purposes of Section 41206 upon enactment of this section.

SEC. 5. (a) Notwithstanding any other provision of law, the following amounts from the following Controller’s office reference items, that would otherwise be in satisfaction of subdivision (b) of Section 8 of Article XVI of the California Constitution for the 2008–09 fiscal year, that were unallocated, unexpended, or not liquidated as of June 30, 2009, shall revert to the General Fund:

(1) 4450-102-0001.....	\$ 12,256,628.09
(2) 6100-103-0001.....	1,403,709.00

(3) 6100-104-0001.....	8,921,610.00
(4) 6100-105-0001.....	32,359,581.00
(5) 6100-107-0001.....	252,000.00
(6) 6100-108-0001.....	176,908,000.00
(7) 6100-113-0001.....	26,732,163.56
(8) 6100-119-0001.....	6,540,534.50
(9) 6100-122-0001.....	3,911,000.00
(10) 6100-123-0001.....	90,492,100.00
(11) 6100-124-0001.....	767,061.00
(12) 6100-125-0001.....	53,533,000.00
(13) 6100-128-0001.....	205,749.00
(14) 6100-137-0001.....	48,003,000.00
(15) 6100-144-0001.....	4,146,000.00
(16) 6100-150-0001.....	2,904.00
(17) 6100-156-0001.....	19,691,825.00
(18) 6100-158-0001.....	2,522,553.00
(19) 6100-161-0001.....	493,295,639.51
(20) 6100-166-0001.....	8,612,600.00
(21) 6100-167-0001.....	20,379.00
(22) 6100-181-0001.....	64,637.00
(23) 6100-190-0001.....	551,546.00
(24) 6100-193-0001.....	5,067,793.00
(25) 6100-195-0001.....	3,385,000.00
(26) 6100-196-0001.....	233,806,508.98
(27) 6100-198-0001.....	27,965,147.00
(28) 6100-201-0001.....	1,017,000.00
(29) 6100-203-0001.....	6,717,856.17
(30) 6100-209-0001.....	19,513.86
(31) 6100-211-0001.....	17,047,135.00
(32) 6100-220-0001.....	8,054,052.00
(33) 6100-228-0001.....	45,926,000.00
(34) 6100-232-0001.....	50,252,306.00
(35) 6100-234-0001.....	241,243.00
(36) 6100-240-0001.....	1,662,629.50
(37) 6100-244-0001.....	45,425,175.52
(38) 6100-245-0001.....	12.00
(39) 6100-248-0001.....	14,959,417.00
(40) 6100-265-0001.....	37,998,248.00
(41) 6100-267-0001.....	9,060,000.00
(42) 6100-268-0001.....	1,698,856.00

(43) 6100-295-0001.....	38,000.00
(44) 6100-611-0001.....	13,114,425.00
(45) 6100-619-0001.....	2,356.00
(46) 6100-624-0001.....	31.00
(47) 6100-628-0001.....	11,367.00
(48) 6100-633-0001.....	1,790,906.00
(49) 6100-649-0001.....	68,164,309.06
(50) 6100-664-0001.....	15,560,138.00
(51) 6360-101-0001.....	5,733,537.41

(b) Notwithstanding Section 41207.5 of the Education Code, the amounts reverted pursuant to subdivision (a) shall not be deposited in the Proposition 98 Reversion Account.

(c) Notwithstanding Section 41202 of the Education Code, the amounts reverted pursuant to subdivision (a) shall not be included in the calculation of the minimum funding obligation pursuant to subdivision (b) of Section 8 of Article XVI of the California Constitution.

(d) (1) The Superintendent of Public Instruction shall calculate the following amount: one billion five hundred sixteen million dollars (\$1,516,000,000) divided by the statewide sum of 2008–09 second principal apportionment average daily attendance for school districts, county offices of education, and charter schools.

(2) The Superintendent shall reduce the apportionment for each school district, county office of education, and charter school provided pursuant to Sections 2558, 42238, and 47633, respectively, of the Education Code for the 2009–10 fiscal year by the amount determined pursuant to paragraph (1) multiplied by the 2008–09 second principal apportionment average daily attendance for that local educational agency. Local educational agencies for which the reduction calculated pursuant to this paragraph exceeds their apportionment of state funds shall have their categorical funding reduced by the excess, except that the amount of the reduction shall be limited by both of the following:

(A) The amount of categorical funds to be reduced shall be limited to the extent that the provisions of Section 41975 of the Education Code cannot be met through other state aid, including amounts provided to a local educational agency pursuant to subdivision (f) of this section.

(B) Apportionments for special education, the After School Education and Safety Program, the Quality Education Investment Act of 2006, and child care and development shall not be reduced.

(e) For the amounts reverted pursuant to subdivision (a), the Superintendent shall determine the amounts that would have been allocated to each local educational agency or other recipient entity, other than amounts that would have been allocated for the High Priority School Grant Program pursuant to Article 3.5 (commencing with Section 52055.600) of Chapter 6.1 of Part 28 of Division 4 of Title 2 of the Education Code, if those funds had not been reverted.

(f) (1) The sum of one billion five hundred sixteen million dollars (\$1,516,000,000) is hereby appropriated from the General Fund to the Superintendent of Public Instruction for the 2009–10 fiscal year for allocation pursuant to paragraph (2).

(2) For the 2009–10 fiscal year, the Superintendent shall allocate to each local agency or other recipient entity identified pursuant to subdivision (e) amounts equal to the amounts determined pursuant to subdivision (e) for that local educational agency or other recipient entity. Amounts received pursuant to this paragraph may be used to satisfy obligations incurred during the 2008–09 fiscal year.

(A) The payments made pursuant to this paragraph shall be considered as payments for the programs identified in subdivision (e), not including the High Priority School Grant Program pursuant to Article 3.5 (commencing with Section 52055.600) of Chapter 6.1 of Part 28 of Division 4 of Title 2 of the Education Code, that are deferred from the 2008–09 fiscal year to the 2009–10 fiscal year.

(B) The Superintendent of Public Instruction shall transfer the amounts identified in paragraphs (1) and (51) of subdivision (a) to the appropriate state agency for distribution.

(C) Any of the amounts identified in paragraphs (1) to (51), inclusive, of subdivision (a) that were transferred to Section A of the State School Fund in the 2008–09 fiscal year shall be distributed through Section A of the State School Fund.

(3) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by this subdivision shall be included in the “[total allocations to school districts and community college

districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B,” as defined in Section 41202 of the Education Code, for the 2009–10 fiscal year.

(g) The amounts reverted pursuant to subdivision (a) shall not affect the determination of base year amounts for categorical funding set forth in Section 42605 of the Education Code.

SEC. 6. Any judicial action or proceeding to challenge, review, set aside, void, or annul the provisions of this act, or any portion of this act, may proceed only by application or complaint filed within 45 days of the effective date of this act.

SEC. 7. It is the intent of the Legislature to simultaneously enact each and every section of this act, and every part thereof. If any section or part of this act is for any reason held unconstitutional, unenforceable, or otherwise invalid, the entire act shall become inoperative provided, however, that if Section 2 is held invalid in whole or in part but Section 3 remains valid in whole, the remainder of the act, excluding Section 2 and including Section 3, shall remain in effect; or if Section 3 is held invalid in whole or in part but Section 2 remains valid in whole, the remainder of the act, excluding Section 3 and including Section 2, shall remain in effect.

SEC. 8. This act addresses the fiscal emergency declared by the Governor by proclamation on July 1, 2009, pursuant to subdivision (f) of Section 10 of Article IV of the California Constitution.

SEC. 9. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to revert moneys that remain unallocated, unexpended, or not liquidated as of June 30, 2009, to the General Fund before the Controller allocates, expends, or liquidates those moneys, it is necessary that this act take effect immediately.

Approved _____, 2009

Governor